

AMENDED IN SENATE JUNE 14, 2012

AMENDED IN ASSEMBLY MARCH 15, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 2303**

**Introduced by Committee on Insurance (Solorio (Chair), Bradford, Carter, Feuer, Hayashi, Torres, and Wieckowski)**

February 24, 2012

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An act to amend Sections 100, 661, 700.04, 923.6, 985, 1011, 1012, 1016, 1022, 1035, 1061, 1063, 1070.6, 1639, 1670, 1685, 1687, 1704, 1749.1, 1750, 1751, 1758.1, 1759.10, 1765.4, 1810.7, 1851, 1864, 12100, ~~and 12962~~, *and 12967* of, to add Section 1011.1 to, to add Article 7.5 (commencing with Section 14085) to Chapter 1 of Division 5 of, to repeal Sections 117, 1688, 1689, 1691, 1692.1, 1695, 1699, 1700, and 12961 of, and to repeal Chapter 2 (commencing with Section 12420) of Part 6 of Division 2 of, the Insurance Code, *and to repeal Section 52.5 of Chapter 639 of the Statutes of 2003*, relating to insurance.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2303, as amended, Committee on Insurance. Insurance omnibus.

(1) Existing law regulates mortgage insurance and defines it as including guaranteeing of the payment of the principal, interest, and other sums agreed to be paid under the terms of any note or bond secured by mortgage, or other sums secured under the terms of the mortgage, in its entirety, or of any undivided or other partial interest in the mortgage, or in a group of mortgages, and the guaranteeing or insuring, directly or indirectly, against loss thereon.

This bill would prohibit mortgage insurance from being an insurance product that may be offered in this state.

(2) Existing law requires the Insurance Commissioner to publish notices of insurer liquidation in a newspaper of general circulation, published in the county in which the proceeding is pending, and in the Counties of Alameda, Los Angeles, Sacramento, San Diego, San Francisco, and Santa Clara, not less than once a week for 4 successive weeks.

This bill would delete the requirement of publication in certain cities and counties for the required period of time, and instead would require only publication in geographic areas pertinent to the liquidation and that the publication reference a source, either the liquidated company's or the liquidator's Internet Web site, where ongoing information for creditors would be provided.

*Existing law requires the commissioner to notify the chair of the Joint Budget Committee of the Legislature, by letter, whenever he or she appoints or employs a special deputy commissioner, clerk, or assistant to the Conservation and Liquidation Office.*

*This bill would instead require the commissioner only to report the appointment or employment of special deputy commissioners or executive officers.*

Existing law authorizes the commissioner to apply by verified application for an order for the liquidation of a domestic corporation in the insurance business.

This bill would incorporate the federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 by authorizing the Federal Deposit Insurance Corporation to stand in the place of the commissioner and file a verified application in state court to place the insurer into liquidation under the laws and requirements of the state.

(3) Existing law authorizes the commissioner to grant authority to transact variable contracts to a person, or a natural person named on a license of an organization licensed, as a life agent which is appointed by an admitted insurer which is required to register itself or to register a separate account or fund with the United States Securities and Exchange Commission, or to register its variable policies or contracts with the Securities and Exchange Commission, and has complied with that requirement.

This bill would clarify that the commissioner is authorized to grant authority to transact variable contracts to a nonresident, who is not a licensed life agent in California, as long as the nonresident is licensed for both life and variable contract authority in his or her resident state. The bill would also impose a \$64 fee on applications, renewals, or

changes for a nonresident variable contract authority license. The bill would declare the fee is reasonable and reflects the true costs incurred by the agency in providing those services.

(4) Existing law authorizes the commissioner to issue to eligible persons a certificate of convenience, a temporary permit issued as a matter of convenience to allow the transaction of insurance without a permanent license, to transact certain kinds of insurance, including, but not limited to, transacting industrial life and industrial disability insurance, known as certificates of convenience pending examination. Existing law requires every insurer to have an approved training program on file with the commissioner or have filed a blanket authorization to certify enrollment in an approved course of instruction before appointing any certificate of convenience holder.

This bill would discontinue certificates of convenience pending examination, delete the training program and blanket authorization to certify enrollment requirement, and make conforming changes.

(5) Existing law requires an applicant for a bail agent license, in order to be eligible to take the examination, to have completed not less than 12 hours of classroom education in subjects pertinent to the duties and responsibilities of a bail licensee. Existing law requires the commissioner to appoint a curriculum board consisting of representatives of insurance agents, brokers, and life agents trade associations and representatives of insurance companies and consumer groups to develop the prelicensing and continuing education curriculum for property broker-agents and casualty broker-agents.

This bill would increase the bail agent license exam eligibility qualification to a minimum of 20 hours. The bill would expand the curriculum board to include representatives of bail agents and insurance adjusters and expand the curriculum being developed to include courses of study for bail agents and insurance adjusters.

(6) Existing law requires any natural person applying for a license to act as a surplus line broker to prove his or her competency by showing he or she holds an existing license to act as a property broker-agent and casualty broker-agent.

This bill would allow a natural person, who is not a resident of California, to prove his or her competency by showing that he or she holds an existing license for property and casualty in his or her resident state.

(7) Existing law requires that on or before May 1 of each year, insurers, engaged in writing child care liability insurance coverage,

submit a report to the commissioner of their operations regarding child care liability claims experience for the preceding calendar year ending on December 31 on a form furnished by the commissioner. The commissioner is required to annually report to the Governor, Legislature, and to the Assembly and Senate Committees on Insurance regarding certain court actions, such as medical malpractice, and child care liability claims.

This bill would delete the requirement of that the insurer child care liability claims experience report for the preceding calendar year ending on December 31 be submitted to the commissioner on or before May 1 of each year, and would instead require that the report for the preceding calendar year be submitted at the request of the commissioner, but not more than annually, on a form prescribed by the commissioner. The bill would also delete the commissioner's reports to the Governor, Legislature, and to the Assembly and Senate Committees on Insurance described above.

*(8) Existing law requires the department to develop and implement a coordinated approach to gather, review, and analyze the archives of insurers and other archives and records to provide for research and investigation into insurance policies, unpaid insurance claims, and related matters of victims of the Holocaust or of the Nazi-controlled German government or its allies, and the beneficiaries and heirs of those victims, and for losses arising from the activities of the Nazi-controlled German government or its allies for insurance policies issued before and during World War II by insurers who have affiliates or subsidiaries authorized to do business in California. Existing law also requires the department to play an independent role in representing the interests of Holocaust survivors where necessary. Under existing law, the department is required to submit to the Governor, the Legislature, and the insurance and budget committees of the Legislature a report on its progress in these matters.*

*This bill would eliminate this reporting requirement.*

~~(8)~~

(9) Existing law requires insurance adjusters to be licensed by the department. Any person who violates any provision regarding the regulation of insurance adjusters is guilty of a misdemeanor.

This bill would establish a category of insurance adjuster license to be known as the crop insurance adjuster license, subject to the same rules and regulations as an insurance adjuster, except where otherwise specified. A person would be prohibited from acting as a crop insurance

adjuster without a license. An applicant for a crop insurance adjuster license would be subject to the same requirements as applicable to obtaining an insurance adjuster license, except the examination, and would be required to provide evidence that he or she has satisfactorily completed the loss adjustment training curriculum and competency testing required by the Federal Crop Insurance Corporation Standard Reinsurance Agreement. Because this bill would expand the scope of a crime, it would create a state-mandated local program.

*(10) Existing law expresses the intent of the Legislature that the commissioner review and analyze the financial conditions, underwriting practices, and rate structure of the State Compensation Insurance Fund and report to the Legislature and the Governor on the potential of reducing rates by July 1 each year.*

*This bill would delete this provision.*

~~(9)~~

*(11) The bill would also make technical, conforming, and related changes and delete obsolete provisions.*

~~(10)~~

*(12) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares that the fees
- 2 to be collected from each nonresident variable contract authority
- 3 applicant and licensee for filing an application, renewal, or change
- 4 in an outstanding license, as set forth in Section ~~29~~ 30, are
- 5 reasonable and reflect the true costs incurred by the agency in
- 6 providing those services.
- 7 SEC. 2. Section 100 of the Insurance Code is amended to read:
- 8 100. Insurance in this state is divided into the following classes:
- 9 (1) Life.
- 10 (2) Fire.
- 11 (3) Marine.
- 12 (4) Title.

- 1 (5) Surety.
- 2 (6) Disability.
- 3 (7) Plate glass.
- 4 (8) Liability.
- 5 (9) Workmen's compensation.
- 6 (10) Common carrier liability.
- 7 (11) Boiler and machinery.
- 8 (12) Burglary.
- 9 (13) Credit.
- 10 (14) Sprinkler.
- 11 (15) Team and vehicle.
- 12 (16) Automobile.
- 13 (17) [Reserved]
- 14 (18) Aircraft.
- 15 (19) Mortgage guaranty.
- 16 (19.5) Insolvency.
- 17 (19.6) Legal insurance.
- 18 (20) Miscellaneous.
- 19 SEC. 3. Section 117 of the Insurance Code is repealed.
- 20 SEC. 4. Section 661 of the Insurance Code is amended to read:
- 21 661. (a) A notice of cancellation of a policy shall be effective
- 22 only if it is based on one or more of the following reasons:
- 23 (1) Nonpayment of premium.
- 24 (2) The driver's license or motor vehicle registration of the
- 25 named insured or of any other operator who either resides in the
- 26 same household or customarily operates an automobile insured
- 27 under the policy has been under suspension or revocation during
- 28 the policy period or, if the policy is a renewal, during its policy
- 29 period or the 180 days immediately preceding its effective date.
- 30 (3) Discovery of fraud by the named insured in pursuing a claim
- 31 under the policy provided the insurer does not rescind the policy.
- 32 (4) Discovery of material misrepresentation of any of the
- 33 following information concerning the named insured or any
- 34 resident of the same household who customarily operates an
- 35 automobile insured under the policy:
- 36 (A) Safety record.
- 37 (B) Annual miles driven in prior years.
- 38 (C) Number of years of driving experience.
- 39 (D) Record of prior automobile insurance claims, if any.

1 (E) Any other factor found by the commissioner to have a  
2 substantial relationship to the risk of loss.

3 Any insured who negligently misrepresents information  
4 described in this paragraph may avoid cancellation by furnishing  
5 corrected information to the insurer within 20 days after receiving  
6 notice of cancellation and agreeing to pay any difference in  
7 premium for the policy period in which the information remained  
8 undisclosed.

9 (5) A substantial increase in the hazard insured against.

10 (b) Modification of automobile physical damage coverage by  
11 the inclusion of a deductible not exceeding one hundred dollars  
12 (\$100) shall not be deemed a cancellation of the coverage or of  
13 the policy.

14 (c) This section shall not apply to nonrenewal.

15 SEC. 5. Section 700.04 of the Insurance Code is amended to  
16 read:

17 700.04. Paid-in capital for life insurers is governed by Section  
18 10510 of this code, for title insurers by Section 12359, and for  
19 mortgage guaranty insurers by Section 12640.03.

20 SEC. 6. Section 923.6 of the Insurance Code is amended to  
21 read:

22 923.6. (a) Every admitted property and casualty insurer, unless  
23 otherwise exempted by the domiciliary commissioner, shall  
24 annually submit the opinion of an Appointed Actuary entitled  
25 "Statement of Actuarial Opinion." This opinion shall be filed in  
26 accordance with the appropriate Property and Casualty Annual  
27 Statement Instructions of the National Association of Insurance  
28 Commissioners (NAIC).

29 (1) For purposes of this section, the term, "property and casualty  
30 insurer" means any admitted insurer writing insurance as described  
31 in Section 102, 103, 105, 107, 108, 109, 110, 111, 112, 113, 114,  
32 115, 116, 118, 119, 119.6, 120, 124, or 124.5.

33 (2) For purposes of this section, the following terms have the  
34 same meaning as used in the Property and Casualty Annual  
35 Statement Instructions of the NAIC:

36 (A) Actuarial Opinion.

37 (B) Actuarial Opinion Summary.

38 (C) Actuarial Report.

39 (D) Appointed Actuary.

40 (E) Statement of Actuarial Opinion.

1 (F) Property and Casualty Annual Statement Instructions.

2 (3) The commissioner may adopt regulations related to the terms  
3 and conditions required by the Property and Casualty Annual  
4 Statement Instructions of the NAIC.

5 (b) Every property and casualty insurer domiciled in this state  
6 that is required to submit a Statement of Actuarial Opinion shall  
7 annually submit an Actuarial Opinion Summary, written by the  
8 insurer's Appointed Actuary. This Actuarial Opinion Summary  
9 shall be filed in accordance with the appropriate Property and  
10 Casualty Annual Statement Instructions of the NAIC and shall be  
11 considered as a document supporting the Actuarial Opinion  
12 required in subdivision (a).

13 (c) An admitted insurer not domiciled in this state shall provide  
14 the Actuarial Opinion Summary upon request of the commissioner.

15 (d) An Actuarial Report and underlying workpapers as required  
16 by the appropriate Property and Casualty Annual Statement  
17 Instructions of the NAIC shall be prepared to support each  
18 Actuarial Opinion. If an insurer fails to provide either a supporting  
19 Actuarial Report or workpapers at the request of the commissioner,  
20 or if the commissioner determines that the supporting Actuarial  
21 Report or workpapers provided by the insurer are otherwise  
22 unacceptable to the commissioner, the commissioner may engage  
23 a qualified actuary at the expense of the insurer to review the  
24 opinion and the basis for the opinion and prepare the supporting  
25 Actuarial Report or workpapers.

26 (e) Notwithstanding subdivision (d) of Section 6254 of the  
27 Government Code, subdivision (f), or any other provision of law,  
28 the Statement of Actuarial Opinion required by subdivision (a)  
29 shall be a public record and open to inspection.

30 (f) (1) Documents, materials, or other information in the  
31 possession or control of the commissioner that are considered an  
32 Actuarial Report, workpapers, or Actuarial Opinion Summary  
33 provided in support of the Statement of Actuarial Opinion, and  
34 any other material provided by the insurer to the commissioner in  
35 connection with the Actuarial Report, workpapers, or Actuarial  
36 Opinion Summary shall be confidential by law and privileged,  
37 shall not be made public by the commissioner or any other person  
38 and are exempt from the California Public Records Act (Chapter  
39 3.5 (commencing with Section 6250) of Division 7 of Title 1 of  
40 the Government Code), shall not be subject to subpoena, and shall

1 not be subject to discovery or admissible in evidence in any civil  
2 action brought by a private party.

3 (2) This subdivision shall not limit the commissioner's authority  
4 to release the documents, materials, and other information  
5 described in paragraph (1) to the American Academy of Actuaries'  
6 Actuarial Board for Counseling and Discipline (ABCD), or its  
7 successor, so long as those documents, materials, and other  
8 information are required for the purpose of professional disciplinary  
9 proceedings, and the ABCD establishes procedures satisfactory to  
10 the commissioner for preserving the confidentiality of the  
11 documents, nor shall this subdivision limit the commissioner's  
12 authority to use those documents, materials, or other information  
13 in furtherance of any regulatory or legal action brought as part of  
14 the commissioner's official duties.

15 (3) The commissioner may also exercise, with respect to the  
16 documents, materials, or other information described in paragraph  
17 (1), all the authority specified in subdivision (b) of Section 735.5,  
18 or any successor provision.

19 SEC. 7. Section 985 of the Insurance Code is amended to read:

20 985. (a) On or after January 1, 1970, as used in this article and  
21 in paragraph (9) of subdivision (a) of Section 1011, "insolvency"  
22 means either of the following:

23 (1) Any impairment of minimum "paid-in capital" or "capital  
24 paid in," as defined in Section 36, required in the aggregate of an  
25 insurer by the provisions of this code for the class, or classes, of  
26 insurance that it transacts anywhere.

27 (2) An inability of the insurer to meet its financial obligations  
28 when they are due.

29 (b) On or after January 1, 1970, an insurer cannot escape the  
30 condition of insolvency by being able to provide for all its liabilities  
31 and for reinsurance of all outstanding risks. An insurer must also  
32 be possessed of additional assets equivalent to the aggregate  
33 "paid-in capital" or "capital paid in" required by this code after  
34 making provision for all those liabilities and for that reinsurance.

35 (c) On or after October 1, 1967, as used in this code provision  
36 for reinsurance of all outstanding risks and "gross premiums  
37 without any deduction, received and receivable upon all unexpired  
38 risks" means the greater of: (1) the aggregate amount of actual  
39 unearned premiums, or (2) the amount reasonably estimated as

1 being required to reinsure in a solvent admitted insurer the  
2 unexpired terms of the risks represented by all outstanding policies.

3 (d) On or after October 1, 1967, an insurer shall make provision  
4 for reinsurance of the outstanding risk on policies that provide  
5 premiums *that* are fully earned at inception and on policies that  
6 for any other reason do not provide for a return premium to the  
7 insured on cancellation prior to expiration.

8 (e) On or after October 1, 1967, the commissioner shall prescribe  
9 standards for reasonably estimating the amount required to reinsure  
10 that will provide adequate safeguards for the policyholders,  
11 creditors, and the public.

12 (f) On or after October 1, 1967, this section shall not be  
13 applicable to life, title, mortgage, or mortgage guaranty insurers.

14 (g) In the application of this section to disability insurance, as  
15 defined in Section 106, reserves for unearned premiums and  
16 amounts reasonably estimated as required to reinsure outstanding  
17 risks shall be determined in accordance with the provisions of  
18 Section 997.

19 SEC. 8. Section 1011 of the Insurance Code is amended to  
20 read:

21 1011. (a) The superior court of the county in which the  
22 principal office of a person described in Section 1010 is located,  
23 upon the filing by the commissioner of the verified application  
24 showing any of the conditions in this subdivision exist, or a filing  
25 by the Federal Deposit Insurance Corporation of the verified  
26 application showing that the conditions enumerated in subdivision  
27 (b) exist and the conditions set forth in Section 5383(e)(3) of Title  
28 12 of the United States Code having been satisfied, shall issue its  
29 order vesting title to all of the assets of that person, wheresoever  
30 situated, in the commissioner or his or her successor in office, in  
31 his or her official capacity, and direct the commissioner forthwith  
32 to take possession of all of its books, records, property, real and  
33 personal, and assets, and to conduct, as conservator, the business  
34 of the person, or so much thereof as to the commissioner may seem  
35 appropriate, and enjoining the person and its officers, directors,  
36 agents, servants, and employees from the transaction of its business  
37 or disposition of its property until any of the following further  
38 order of the court:

1 (1) That the person has refused to submit its books, papers,  
2 accounts, or affairs to the reasonable inspection of the  
3 commissioner or his or her deputy or examiner.

4 (2) That the person has neglected or refused to observe an order  
5 of the commissioner to make good within the time prescribed by  
6 law any deficiency in its capital if it is a stock corporation, or in  
7 its reserve if it is a mutual insurer.

8 (3) That the person, without first obtaining the consent in writing  
9 of the commissioner, has transferred, or attempted to transfer,  
10 substantially its entire property or business or, without consent,  
11 has entered into any transaction the effect of which is to merge,  
12 consolidate, or reinsure substantially its entire property or business  
13 in or with the property or business of any other person.

14 (4) That the person is found, after an examination, to be in such  
15 condition that its further transaction of business will be hazardous  
16 to its policyholders, or creditors, or to the public.

17 (5) That the person has violated its charter or any law of the  
18 state.

19 (6) That any officer of the person refuses to be examined under  
20 oath, touching its affairs.

21 (7) That any officer or attorney in fact of the person has  
22 embezzled, sequestered, or wrongfully diverted any of the assets  
23 of the person.

24 (8) That a domestic insurer does not comply with the  
25 requirements for the issuance to it of a certificate of authority, or  
26 that its certificate of authority has been revoked.

27 (9) That the last report of examination of any person to whom  
28 the provisions of this article apply shows the person to be insolvent  
29 within the meaning of Article 13 (commencing with Section 980);  
30 *of* Chapter 1; *of* Part 2; *of* Division 1; or if a reciprocal or  
31 interinsurance exchange, within the applicable provisions of  
32 Section 1370.2, 1370.4, 1371, or 1372; or if a life insurer, within  
33 the applicable provisions of Sections 10510 and 10511.

34 (b) Notification is given by the United States Secretary of the  
35 Treasury that a determination has been made by the secretary, in  
36 accordance with and satisfying the provisions of Section 5383(b)  
37 of Title 12 of the United States Code, as to a person described in  
38 Section 1010 that is an insurance company as defined in Section  
39 5381(a)(13) of Title 12 of the United States Code, and one of the  
40 following:

1 (1) The board of directors, or body performing similar functions,  
2 of the person acquiesces or consents to the appointment of a  
3 receiver as provided for in Section 5832(a)(1)(A)(i) of Title 12 of  
4 the United States Code, with that consent to be considered to be  
5 consent to issuance of an order under this section.

6 (2) The United States District Court for the District of Columbia  
7 issued an order for the appointment of a receiver of the person as  
8 provided for in Section 5382(a)(1)(A)(iv)(I) of Title 12 of the  
9 United States Code, without regard to whether an appeal of the  
10 order is pending.

11 (3) A petition by the United States Secretary of the Treasury  
12 for appointment of a receiver was made to the United States District  
13 Court for the District of Columbia and was granted by operation  
14 of the law as provided for in Section 5382(a)(1)(A)(v) of Title 12  
15 of the United States Code, without regard to whether an appeal of  
16 the order is pending.

17 SEC. 9. Section 1011.1 is added to the Insurance Code, to read:

18 1011.1. If a verified application is filed pursuant to Section  
19 1011 that shows that the conditions set forth in subdivision (b) of  
20 Section 1011 exist and upon a showing that notice was provided  
21 to the person that is the subject of the verification application, all  
22 of the following apply:

23 (a) A superior court hearing shall be held in which the person  
24 may oppose the verified application solely on the grounds that the  
25 conditions set forth in subdivision (b) of Section 1101 do not exist.  
26 The hearing shall be completed within 24 hours after the verified  
27 application is filed with the court.

28 (b) The superior court shall issue an order as provided for in  
29 Section 1011 within 24-hours after the verified application was  
30 filed with the court.

31 (c) If the superior court does not issue an order within 24 hours  
32 as provided for in subdivision (b), then an order described in  
33 subdivision (a) of Section 1011 shall be deemed granted by  
34 operation of law upon expiration of the 24-hour period, without  
35 further notice.

36 (d) An order entered by the superior court pursuant to  
37 subdivision (b) or entered by operation of law pursuant to  
38 subdivision (c) shall not be subject to any stay or injunction  
39 pending appeal.

1 SEC. 10. Section 1012 of the Insurance Code is amended to  
2 read:

3 1012. Except in the case of an order issued based on a verified  
4 application showing the conditions in subdivision (b) of Section  
5 1011 to exist, the order shall continue in force and effect until, on  
6 the application either of the commissioner or of that person, it  
7 shall, after a full hearing, appear to the court that the ground for  
8 the order directing the commissioner to take title and possession  
9 does not exist or has been removed and that the person can properly  
10 resume title and possession of its property and the conduct of its  
11 business.

12 SEC. 11. Section 1016 of the Insurance Code is amended to  
13 read:

14 1016. (a) If at any time after the issuance of an order under  
15 Section 1011, or if at the time of instituting any proceeding under  
16 this article, including under Section 1011, it shall appear to the  
17 commissioner that it would be futile to proceed as conservator  
18 with the conduct of the business of that person, he or she may  
19 apply to the court for an order to liquidate and wind up the business  
20 of the person. Upon a full hearing of that application, the court  
21 may make an order directing the winding up and liquidation of the  
22 business of that person by the commissioner, as liquidator, for the  
23 purpose of carrying out the order to liquidate and wind up the  
24 business of that person.

25 (b) Notwithstanding subdivision (a), the court may issue an  
26 order to liquidate and wind up the business of a person as to whom  
27 a verified application is filed pursuant to subdivision (b) of Section  
28 1011 based solely on the verified application and hearing as  
29 provided for in subdivision (a) of Section 1011.1, without further  
30 hearing, or may issue an order to liquidate and wind up the business  
31 of the person upon application by the commissioner after the  
32 issuance of an order under Section 1011. The court's order may  
33 direct the winding up and liquidation of the business of the person  
34 by the commissioner, as liquidator, for the purpose of carrying out  
35 the order to liquidate and wind up the business of the person.

36 SEC. 12. Section 1022 of the Insurance Code is amended to  
37 read:

38 1022. The notice shall be published in newspapers of general  
39 circulation in geographic areas pertinent to the liquidation. The  
40 notice shall reference a source, either the liquidated company's or

1 the liquidator's Internet Web site, where ongoing information for  
2 creditors shall be provided. A copy of the notice, accompanied by  
3 an affidavit of due publication, including a statement of the date  
4 of publication, shall be filed with the clerk of the court.

5 *SEC. 13. Section 1035 of the Insurance Code is amended to*  
6 *read:*

7 1035. (a) In any proceeding under this article, the  
8 commissioner may appoint and employ under his or her hand and  
9 official seal, special deputy commissioners, as his or her agents,  
10 and to employ clerks and assistants and to give to each of them  
11 those powers that he or she deems necessary. Upon appointing or  
12 employing special deputy commissioners, ~~clerks, or assistants or~~  
13 *executive officers*, the commissioner shall notify the Chair of the  
14 Joint Budget Committee of the Legislature, by letter, of the action.  
15 The costs of employing special deputy commissioners, clerks, and  
16 assistants appointed to carry out this article, and all expenses of  
17 taking possession of, conserving, conducting, liquidating, disposing  
18 of, or otherwise dealing with the business and property of that  
19 person under this article, shall be fixed by the commissioner,  
20 subject to the approval of the court, and shall be paid out of the  
21 assets of that person to the department. In the event the property  
22 of that person does not contain cash or liquid assets sufficient to  
23 defray the cost of the services required to be performed under the  
24 terms of this article, the commissioner may at any time or from  
25 time to time pay the cost of those services out of the appropriation  
26 for the maintenance of the department, but not out of the assets of  
27 other estates. Any amounts so paid shall be deemed expenses of  
28 administration and shall be repaid to the fund out of the first  
29 available moneys in the estate.

30 (b) Any person appointed by the commissioner to serve in the  
31 capacity of chief executive officer of the department's Conservation  
32 and Liquidation Office shall be subject to confirmation by the  
33 Senate.

34 ~~SEC. 13.~~

35 *SEC. 14. Section 1061 of the Insurance Code is amended to*  
36 *read:*

37 1061. In verification of the matters set forth in Section 1060  
38 of this code, the Department of Finance shall, at least every two  
39 years or more often if requested by the commissioner, examine  
40 the commissioner's books and accounts relating to all proceedings

1 under this article, and shall file a report of each examination with  
2 the court in which the respective proceeding is pending and shall  
3 furnish the commissioner a certified copy of each report. The  
4 expense of examining the books and accounts of the commissioner  
5 as conservator or liquidator under this article shall be paid out of  
6 the support appropriation for the Department of Insurance current  
7 at the date of billing for the expense and shall, upon order of the  
8 court or courts before which the proceedings under the articles are  
9 pending, be ratably reimbursed to that appropriation out of the  
10 assets of the estates administered by the commissioner as  
11 conservator or liquidator under this article.

12 ~~SEC. 14.~~

13 *SEC. 15.* Section 1063 of the Insurance Code is amended to  
14 read:

15 1063. (a) Within 60 days after the original effective date of  
16 this article, all insurers, including reciprocal insurers, admitted to  
17 transact insurance in this state of any or all of the following classes  
18 only in accordance with the provisions of Chapter 1 (commencing  
19 with Section 100) of Part 1 of this division: fire (see Section 102),  
20 marine (see Section 103), plate glass (see Section 107), liability  
21 (see Section 108), workers' compensation (see Section 109),  
22 common carrier liability (see Section 110), boiler and machinery  
23 (see Section 111), burglary (see Section 112), sprinkler (see Section  
24 114), team and vehicle (see Section 115), automobile (see Section  
25 116), aircraft (see Section 118), and miscellaneous (see Section  
26 120), shall establish the California Insurance Guarantee Association  
27 (the association); provided, however, this article shall not apply  
28 to the following classes or kinds of insurance: life and annuity (see  
29 Section 101), title (see Section 104), fidelity or surety including  
30 fidelity or surety bonds, or any other bonding obligations (see  
31 Section 105), disability or health (see Section 106), credit (see  
32 Section 113), mortgage guaranty, insolvency or legal (see Section  
33 119), financial guaranty or other forms of insurance offering  
34 protection against investment risks (see Section 124), the ocean  
35 marine portion of any marine insurance or ocean marine coverage  
36 under any insurance policy including the following: the Jones Act  
37 (46 U.S.C. Sec. 688), the Longshore and Harbor Workers'  
38 Compensation Act (33 U.S.C. Sec. 901 et seq.), or any other similar  
39 federal statutory enactment, or any endorsement or policy affording  
40 protection and indemnity coverage, or reinsurance as defined in

1 Section 620, or fraternal fire insurance written by associations  
2 organized and operating under Sections 9080 to 9103, inclusive.  
3 Any insurer admitted to transact only those classes or kinds of  
4 insurance excluded from this article shall not be a member insurer  
5 of the association. Each insurer admitted to transact a class of  
6 insurance included in this article, including the State Compensation  
7 Insurance Fund, as a condition of its authority to transact insurance  
8 in this state, shall participate in the association whether established  
9 voluntarily or by order of the commissioner after the elapse of 60  
10 days following the original effective date of this article in  
11 accordance with rules to be established as provided in this article.  
12 It shall be the purpose of the association to provide for each  
13 member insurer insolvency insurance as defined in Section 119.5.

14 (b) The association shall be managed by a board of governors,  
15 composed of nine member insurers, each of which shall be  
16 appointed by the commissioner to serve initially for terms of one,  
17 two, or three years and thereafter for three-year terms so that three  
18 terms shall expire each year on December 31, and shall continue  
19 in office until his or her successor shall be appointed and qualified.  
20 At least five members of the board shall be domestic insurers. At  
21 least three of the members shall be stock insurers, and at least three  
22 shall be nonstock insurers. The nine members shall be  
23 representative, as nearly as possible, of the classes of insurance  
24 and of the kinds of insurers covered by this article. In case of a  
25 vacancy for any reason on the board, the commissioner shall  
26 appoint a member insurer to fill the unexpired term. In addition to  
27 the nine member insurers, the membership of the board shall also  
28 include one public member appointed by the President pro Tempore  
29 of the Senate, one public member appointed by the Speaker of the  
30 Assembly, one business member appointed by the commissioner,  
31 and one labor member appointed by the commissioner.

32 (c) The association shall adopt a plan of operations, and any  
33 amendments thereto, not inconsistent with the provisions of this  
34 article, necessary to assure the fair, reasonable, and equitable  
35 manner of administering the association, and to provide for other  
36 matters as are necessary or advisable to implement the provisions  
37 of this article. The plan of operations and any amendments thereto  
38 shall be subject to prior written approval by the commissioner. All  
39 members of the association shall adhere to the plan of operation.

1 (d) If for any reason the association fails to adopt a suitable plan  
2 of operation within 90 days following the original effective date  
3 of this article, or if at any time thereafter the association fails to  
4 adopt suitable amendments to the plan of operation, the  
5 commissioner shall after hearing adopt and promulgate reasonable  
6 rules as are necessary or advisable to effectuate the provisions of  
7 this chapter. These rules shall continue in force until modified by  
8 the commissioner after hearing or superseded by a plan of  
9 operation, adopted by the association and approved by the  
10 commissioner.

11 (e) In accordance with its plan of operation, the association may  
12 designate one or more of its members as a servicing facility, but  
13 a member may decline this designation. Each servicing facility  
14 shall be reimbursed by the association for all reasonable expenses  
15 it incurs and for all payments it makes on behalf of the association.  
16 Each servicing facility shall have authority to perform any  
17 functions of the association that the board of governors lawfully  
18 may delegate to it and to do so on behalf of and in the name of the  
19 association. The designation of servicing facilities shall be subject  
20 to the approval of the commissioner.

21 (f) The association shall have authority to borrow funds when  
22 necessary to effectuate the provisions of this article, and may  
23 provide in its plan of operations for any of the following:

24 (1) The issuance of notes, bonds, or debentures, or the  
25 establishment of a special purpose trust or other entity, solely for  
26 the purpose of facilitating a financing.

27 (2) The securing of that borrowing or those notes, bonds, or  
28 debentures by pledging or granting liens or mortgages, or by  
29 otherwise encumbering its real or personal property, including,  
30 but not limited to, premiums levied under Section 1063.5.

31 (g) The association, either in its own name or through servicing  
32 facilities, may be sued and may use the courts to assert or defend  
33 any rights the association may have by virtue of this article as  
34 reasonably necessary to fully effectuate the provisions thereof.

35 (h) The association shall have the right to intervene as a party  
36 in any proceeding instituted pursuant to Section 1016 wherein  
37 liquidation of a member insurer as defined in Section 1063.1 is  
38 sought.

39 (i) (1) The association shall have an annual audit of its financial  
40 condition conducted by an independent certified public accountant.

1 The audit shall be conducted, to the extent possible, in accordance  
2 with generally accepted auditing standards (GAAS) and the report  
3 of the audit shall be submitted to the commissioner.

4 (2) The association shall annually audit at least one-third of the  
5 service companies retained by the association to adjust claims of  
6 insolvent insurers. The audits shall (A) assure that all covered  
7 claims are being investigated, adjusted, and paid in accordance  
8 with customary industry standards and practices and all applicable  
9 statutes, rules, and regulations, and (B) examine the management  
10 and supervisory systems overseeing the claims functions. The  
11 audits shall be conducted by the association or an independent  
12 auditor, provided that the three largest service companies, as  
13 measured by the number of claims processed for the association  
14 during the previous three fiscal years, shall be audited by an  
15 independent auditor at least once every three years. The association  
16 shall implement systems to retain independent auditing firms for  
17 the purpose of this paragraph, provided that no one firm is  
18 designated or utilized as an exclusive provider. Audits conducted  
19 pursuant to this paragraph shall be submitted annually to the  
20 commissioner for review.

21 (j) The commissioner shall examine the association to the same  
22 extent as, and in accordance with, the requirements of Article 4  
23 (commencing with Section 729) of Chapter 1 of Part 2 of Division  
24 1, which sets forth the examination requirements applicable to  
25 admitted insurers. A copy of the examination report shall be filed  
26 with the Chairpersons of the Senate and Assembly Committees  
27 on Insurance no later than December 31 of the year the report is  
28 completed.

29 ~~SEC. 15.~~

30 *SEC. 16.* Section 1070.6 of the Insurance Code is amended to  
31 read:

32 1070.6. The withdrawal procedure and fees prescribed by this  
33 article shall not be required of a nonsurviving admitted constituent  
34 to a merger or consolidation into another admitted insurer in  
35 accordance with the applicable statutes and the commissioner's  
36 prior written consent given pursuant to paragraph (3) of subdivision  
37 (a) of Section 1011, provided the commissioner is satisfied by  
38 documents, authenticated so as to be admissible in evidence over  
39 objection, filed with him, that:

1 (a) The constituent has discharged all of its liabilities to residents  
2 of this state in the manner provided by Section 1071.5;

3 (b) There will be an admitted insurer directly available to the  
4 constituent's policyholders: (1) to obtain policy changes and  
5 endorsements, (2) to receive payment of premiums and refund  
6 unearned premiums, (3) to serve notice of claim, proof of loss,  
7 summons, process, and other papers, and (4) for purposes of suit;

8 (c) The constituent shall timely file with the commissioner  
9 appropriate financial statements reporting its insurance business  
10 done in this state during the calendar year of the merger or  
11 consolidation and all appropriate tax returns required by law for  
12 the period, and shall timely pay all taxes found to be due on account  
13 of the business; and

14 (d) The constituent has surrendered its current California  
15 certificate of authority to the commissioner for cancellation as of  
16 the effective date of the merger.

17 The withdrawal procedure and fees prescribed by this article  
18 shall not be required of an insurer that has been liquidated by a  
19 final order of a court of record of this or any sister state provided  
20 a certified copy of the order reciting the fact of liquidation and  
21 discharge of all obligations has been filed with the commissioner.

22 ~~SEC. 16.~~

23 *SEC. 17.* Section 1639 of the Insurance Code is amended to  
24 read:

25 1639. The following types of licenses under this chapter may  
26 be issued to nonresidents:

27 (a) A property broker-agent or a casualty broker-agent if the  
28 nonresident is duly licensed to transact those lines of insurance  
29 described in Section 1625, under the laws of the state, territory of  
30 the United States, or province of Canada where the resident license  
31 is maintained.

32 (b) A personal lines broker-agent if the nonresident is duly  
33 licensed to transact those lines of insurance described in Section  
34 1625.5, under the laws of the state, territory of the United States,  
35 or province of Canada where the resident license is maintained.

36 (c) A life-only agent or an accident and health agent if the  
37 nonresident possesses a resident license in another state, territory  
38 of the United States, or province of Canada to transact life  
39 insurance or disability insurance.

(d) A nonresident may be granted authority to transact variable contracts if he or she has been granted that authority by the state where the resident license is maintained. To qualify for this authority, the nonresident is required to also be licensed as a life-only agent in the state where the resident license is maintained.

(e) A surplus line broker and a special lines surplus broker if the nonresident holds that type of license in the state or territory of the United States where the resident license is maintained.

(f) A credit insurance agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(g) A rental car agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(h) A cargo shipper's agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(i) A limited lines license if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained. As used in this section, "limited lines license" means any authority granted by the resident state that restricts the authority of the license to less than the total authority granted by any of the types of licenses identified in this section.

(j) A self-service storage agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

~~SEC. 17.~~

*SEC. 18.* Section 1670 of the Insurance Code is amended to read:

1670. If an applicant for any license under this chapter, within one year from the date of the receipt by the commissioner of the application, whether or not the filing is complete, or within one year from the date of the issuance to him or her of a certificate of convenience, if any, whichever is the later date, neither fully qualifies for and receives that license on a permanent basis, nor is denied its issue, the application is automatically denied without prejudice to the filing of a new application for the license unless in a proceeding under a statement of issues the commissioner for good cause determines the denial should be set aside or stayed.

~~SEC. 18.~~

*SEC. 19.* Section 1685 of the Insurance Code is amended to read:

1685. The commissioner may issue to an eligible person a certificate of convenience to act as any of the following:

(a) Any type of a licensee under this chapter or Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Part 5 (commencing with Section 121401) of Division 2 to administer the business of a licensed person who has died or who has been declared incompetent by the judgment of a court of competent jurisdiction. That certificate of convenience may be denominated an estate certificate of convenience.

(b) Any type of a licensee under this chapter or Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Part 5 (commencing with Section 121401) of Division 2 to conserve the business of a licensed natural person who enters the military service of the United States or to conserve the business of an organization under the conditions specified in Section 1697. That certificate of convenience may be denominated a military service certificate.

~~SEC. 19.~~

*SEC. 20.* Section 1687 of the Insurance Code is amended to read:

1687. Except as provided in Section 1637, to be eligible for a military service certificate of convenience, a person is required to be nominated therefor by the holder of a permanent license who, while the holder, entered the military service of the United States. "Military service" has the meanings ascribed to it by Section 101 of the Servicemembers Civil Relief Act of 2003 (Public Law 108-189).

~~SEC. 20.~~

*SEC. 21.* Section 1688 of the Insurance Code is repealed.

~~SEC. 21.~~

*SEC. 22.* Section 1689 of the Insurance Code is repealed.

~~SEC. 22.~~

*SEC. 23.* Section 1691 of the Insurance Code is repealed.

~~SEC. 23.~~

*SEC. 24.* Section 1692.1 of the Insurance Code is repealed.

~~SEC. 24.~~

*SEC. 25.* Section 1695 of the Insurance Code is repealed.

1     ~~SEC. 25.~~

2     ~~SEC. 26.~~ Section 1699 of the Insurance Code is repealed.

3     ~~SEC. 26.~~

4     ~~SEC. 27.~~ Section 1700 of the Insurance Code is repealed.

5     ~~SEC. 27.~~

6     ~~SEC. 28.~~ Section 1704 of the Insurance Code is amended to  
7 read:

8     1704. (a) Any person acting as a licensee under this chapter  
9 shall not act as an agent of an insurer unless the insurer has filed  
10 with the commissioner a notice of appointment, executed by the  
11 insurer, appointing the licensee as the insurer's agent. Every  
12 property broker-agent, casualty broker-agent, personal lines  
13 broker-agent, or limited lines automobile insurance agent acting  
14 in the capacity of an insurance solicitor shall have filed on his or  
15 her behalf with the commissioner a notice executed by an insurance  
16 agent or insurance broker appointing and agreeing to employ the  
17 solicitor as an employee within this state. Additional notices of  
18 appointment may be filed by other insurers before the license is  
19 issued and thereafter as long as the license remains in force. The  
20 authority to transact insurance given to a licensee by an insurer,  
21 property broker-agent, casualty broker-agent, personal lines  
22 broker-agent, or limited lines automobile insurance agent, as the  
23 case may be, by appointment shall be effective as of the date the  
24 notice of appointment is signed. That authority to transact shall  
25 apply to transactions occurring after that date and for the purpose  
26 of determining the insurer's, property broker-agent's, casualty  
27 broker-agent's, personal lines broker-agent's, or limited lines  
28 automobile insurance agent's liability for acts of the appointed  
29 licensee. No notice of appointment of a life agent, property  
30 broker-agent, casualty broker-agent, personal lines broker-agent,  
31 limited lines automobile insurance agent, or travel insurance agent  
32 shall be filed under this subdivision unless the licensee being  
33 appointed has consented to that filing. Each appointment made  
34 under this subdivision shall by its terms continue in force until:

35     (1) The cancellation or expiration of the license applied for or  
36 held at the time the appointment was filed.

37     (2) The filing of a notice of termination by the insurer or  
38 employing property broker-agent or casualty broker-agent, or by  
39 the appointed life agent, property broker-agent, casualty  
40 broker-agent, travel insurance agent, or insurance solicitor.

1 (b) Upon the termination of all appointments, or all  
2 endorsements naming the licensee on the license of an organization  
3 licensee, and the cancellation of the bond required pursuant to  
4 Section 1662 if acting as a broker, the permanent license shall not  
5 be canceled, but shall become inactive. It may be renewed pursuant  
6 to Section 1718. It may be reactivated at any time prior to its  
7 expiration by the filing of a new appointment pursuant to this  
8 section, Section 1707, and Section 1751.3, or the filing of a new  
9 bond pursuant to Section 1662. An inactive license shall not permit  
10 its holder to transact any insurance for which a valid, active license  
11 is required.

12 (c) Upon the termination of all appointments of a person licensed  
13 under a certificate of convenience, that certificate shall be canceled  
14 and shall be returned by its lawful custodian to the commissioner.

15 (d) A property broker-agent or a casualty broker-agent  
16 appointing an insurance solicitor pursuant to this section, if a  
17 natural person, shall be the holder of a permanent license to act as  
18 such a broker-agent or the holder of a certificate of convenience  
19 so to act issued pursuant to either subdivision (a) or (b) of Section  
20 1685. If the property broker-agent or the casualty broker-agent is  
21 an organization, it shall be the holder of a permanent license.

22 (e) The filing of an incomplete or deficient action notice with  
23 the department shall require the filing of an amended, complete  
24 action notice, together with the payment of the fee therefor  
25 specified in subdivision (I) of Section 1751.

26 (f) A notice of appointment appointing a solicitor may be filed  
27 by a second or subsequent property broker-agent or casualty  
28 broker-agent. The broker-agent seeking to appoint the solicitor  
29 shall enter into an agreement with all other property broker-agents  
30 and casualty broker-agents with whom the insurance solicitor has  
31 an existing appointment. The agreement shall govern how the  
32 broker-agents will determine on which property broker-agent's or  
33 casualty broker-agent's behalf the solicitor is working when dealing  
34 with individuals who are customers of none of the property  
35 broker-agents and casualty broker-agents with whom the solicitor  
36 has an appointment. If the agreement does not identify which  
37 broker-agent or broker-agents are liable for the act of the solicitor,  
38 all property broker-agents and casualty broker-agents with whom  
39 the solicitor is appointed at the time of the act shall be jointly and  
40 severally liable for that act.

1     ~~SEC. 28.~~

2     *SEC. 29.* Section 1749.1 of the Insurance Code is amended to  
3 read:

4     1749.1. (a) The commissioner shall appoint a curriculum board  
5 consisting of representatives of insurance agents, brokers, and life  
6 agents trade associations, representatives of insurance companies,  
7 consumer groups, bail agents, and insurance adjusters to develop  
8 the prelicensing and continuing education curriculum, including  
9 a list of preapproved courses of study, including courses of study  
10 for professional designations that would satisfy the requirements  
11 of this article, subdivision (a) of Section 1810.7, and Sections  
12 14090.1 and 15059.1. The curriculum board shall develop or  
13 recommend courses of study covering all lines of insurance to be  
14 sold under each license including, but not limited to, any special  
15 products such as long-term care insurance, Medi-gap policies,  
16 disability insurance products, and course study on ethics and  
17 pertinent sections of this code. The curriculum developed and the  
18 courses of study approved by the board shall be submitted to the  
19 commissioner for final approval.

20     (b) The curriculum board shall also develop standards for  
21 providers and instructors of prelicensing and continuing education  
22 courses, programs, and seminars, which standards shall be  
23 approved by the board and submitted to the commissioner for final  
24 approval. The curriculum board may approve standards for courses  
25 in business management practices that may consist of up to 25  
26 percent of the agent or broker requirements for license renewal.  
27 No prelicensing or continuing education course shall include sales  
28 training, motivational training, self-improvement training, or  
29 training offered by insurers or agents regarding new products or  
30 programs.

31     (c) For purposes of applying subdivision (b), courses in  
32 “business management practices” shall consist of the following  
33 subject matter:

34     (1) Accounting and financial management, including trust  
35 account maintenance, reconciliation and auditing, financial  
36 statements, business budgeting, income and expense ratios, banking  
37 and investment practices, and business perpetuation and planning.

38     (2) Information and database management, including  
39 recordkeeping, privacy law, and other legal requirements covering  
40 the use of information.

1 (3) Human resource management, including employee  
2 compliance supervision, recruitment, training, and licensing.

3 (4) Customer service management, consisting of methods to  
4 improve handling of consumer inquiries and complaints.

5 (5) Communication skills, consisting of methods to improve  
6 writing and verbal skills for communication with clients,  
7 employees, insurance carriers, claims departments, and regulators.

8 (d) Whenever the commissioner has reasonable cause to believe,  
9 and determines after public hearing, that any approved course,  
10 program of instruction, or seminar is being conducted so as to fail  
11 to meet the commissioner's prelicensing or continuing education  
12 curriculum, or any provider or instructor for any course, program,  
13 or seminar has failed to comply with the commissioner's standards,  
14 the commissioner may make and serve upon the provider or  
15 instructor of that course, program, or seminar an order or orders  
16 rescinding approval for that provider, course, program, or seminar,  
17 or imposing fines and penalties on that provider, or both. The  
18 amount of any fines and penalties shall not exceed the amounts  
19 set forth in Section 1748, and shall be based on the criteria for  
20 assessing penalties specified in that section. No credit towards  
21 meeting the requirements of this article shall be granted any  
22 applicant or licensee for completion of a course, program, or  
23 seminar after the effective date of any order rescinding approval  
24 for that course, program, or seminar. The commissioner shall serve  
25 notice of hearing required by this section upon the provider or  
26 instructor of the course, program, or seminar, stating the time and  
27 place therefor, and the grounds upon which his or her order is  
28 made. The hearing shall occur not less than 30 nor more than 60  
29 days after notice is served.

30 (e) The commissioner may impose monetary penalties for minor  
31 instances of noncompliance with the standards established pursuant  
32 to this article, such as late course roster submissions and late course  
33 presentation schedules. The monetary penalties shall not exceed  
34 the amounts of the fees established pursuant to Section 1751.1.  
35 The commissioner shall adopt regulations to establish the monetary  
36 penalties to be levied against providers for late filings and other  
37 minor instances of noncompliance with this article and Article 6.5  
38 (commencing with Section 2186) of Subchapter 1 of Chapter 5 of  
39 Title 10 of the California Code of Regulations.

1     ~~SEC. 29.~~

2     *SEC. 30.* Section 1750 of the Insurance Code is amended to  
3 read:

4     1750. The commissioner shall require in advance as a fee for  
5 filing application for the hereinafter designated licenses, renewals  
6 thereof, or changes in outstanding licenses, an amount calculated  
7 as set forth herein. The fee is determined by multiplying the number  
8 of license years in the period of the license applied for or the  
9 remaining period of an existing license counting any initial  
10 fractional license year of that period as one year for that purpose,  
11 as follows:

- 12     (a) Casualty broker-agent, fifty-six dollars (\$56).
- 13     (b) Property broker-agent, fifty-six dollars (\$56).
- 14     (c) Property and casualty broker-agent, when applied for on a  
15 single application, fifty-six dollars (\$56).
- 16     (d) Personal lines broker-agent, resident, fifty-six dollars (\$56).
- 17     (e) Life agent, resident, fifty-six dollars (\$56).
- 18     (f) Life agent, nonresident, fifty-six dollars (\$56).
- 19     (g) Surplus line broker who is an individual transacting only on  
20 behalf of a surplus line broker organization, two hundred fifty  
21 dollars (\$250).
- 22     (h) Surplus line broker not described in subdivision (e), five  
23 hundred dollars (\$500).
- 24     (i) Variable contract authority, nonresident, when not also  
25 applying for a nonresident life agent license, sixty-four dollars  
26 (\$64).

27     ~~SEC. 30.~~

28     *SEC. 31.* Section 1751 of the Insurance Code is amended to  
29 read:

30     1751. The commissioner shall require, in advance, a fee for  
31 filing the following documents:

- 32     (a) Application for registration of change in membership of a  
33 copartnership licensed as any of the following:
  - 34         (1) Casualty broker-agent, fifty-six dollars (\$56).
  - 35         (2) Property broker-agent, fifty-six dollars (\$56).
  - 36         (3) Property and casualty broker-agent, when applied for on a  
37 single application, fifty-six dollars (\$56).
  - 38         (4) Life agent, resident, forty-eight dollars (\$48).
  - 39         (5) Life agent, nonresident, fifty-three dollars (\$53).
  - 40         (6) Personal lines broker-agent, fifty-six dollars (\$56).

(b) Notice for adding or removing from any life agent's, property broker-agent's, casualty broker-agent's, or personal lines broker-agent's license issued to an organization the name of any natural person named thereon, sixteen dollars (\$16).

(c) First amendment to an application, eight dollars (\$8); a second and each subsequent amendment to an application, sixteen dollars (\$16).

(d) Original application to be given the qualifying examination for a license of a property, casualty, or personal lines licensee, twenty-seven dollars (\$27) for each person to be examined.

(e) Original application to be given the qualifying examination for a license of a life licensee, twenty-seven dollars (\$27) for each person to be examined.

(f) Application for reexamination for any of the licenses mentioned in this section, twenty-seven dollars (\$27) for each person to be reexamined.

(g) Application which includes a request for a certificate of convenience pursuant to Article 8 (commencing with Section 1685), twenty dollars (\$20) in addition to, and not in lieu of, fees otherwise required.

(h) Application or request for approval of a true or fictitious name pursuant to Section 1724.5, thirty dollars (\$30), except that there shall be no fee when the name is contained in an original application.

(i) "A ratification of appointments of agents" whereby the surviving insurer in a merger or consolidation assumes responsibility for all agents then lawfully appointed for one of the constituent insurers and makes each its agent, one hundred three dollars (\$103).

(j) A bond, pursuant to Article 5 (commencing with Section 1662) or Section 1760.5 or 1765, except when the bond constitutes part of an original application filing, sixteen dollars (\$16).

(k) An application or request for clearance and cancellation notice of a current licensee of record, sixteen dollars (\$16).

(l) An amended action notice pursuant to subdivision (e) of Section 1704, five dollars (\$5).

~~SEC. 31.~~

*SEC. 32.* Section 1758.1 of the Insurance Code is amended to read:

1 1758.1. (a) For the purpose of making provision for the  
2 issuance of policies or contracts authorized by Article 5  
3 (commencing with Section 10506) of Chapter 5 of Part 2 of  
4 Division 2, the commissioner may grant authority to transact  
5 variable contracts to a person or a natural person named on a  
6 license of an organization licensed as a life agent that is appointed  
7 by an admitted insurer that is required to register itself or to register  
8 a separate account or fund with the United States Securities and  
9 Exchange Commission under the Federal Investment Company  
10 Act of 1940, or to register its variable policies or contracts with  
11 the Securities and Exchange Commission under the Federal  
12 Securities Act of 1933, and has complied with that requirement.  
13 The commissioner may grant variable contract authority to a person  
14 who is not a resident of California and is not a licensed life agent  
15 in California provided that the person is licensed for both life and  
16 variable contract authority in his or her resident state.

17 (b) No person shall act as an agent of the insurer in the  
18 transaction of the policies or contracts unless he or she holds a  
19 valid authority under this article.

20 ~~SEC. 32.~~

21 *SEC. 33.* Section 1759.10 of the Insurance Code is amended  
22 to read:

23 1759.10. A person shall not act as, or hold himself or herself  
24 out to be, an administrator in this state, other than an adjuster  
25 licensed in this state for the kinds of business for which he or she  
26 is acting as an administrator, unless he or she holds a certificate  
27 of registration as an administrator issued by the commissioner.  
28 The certificate shall be issued, renewed, and held in accordance  
29 with, and subject to, all the provisions applicable to a life agent  
30 contained in Article 6 (commencing with Section 1666), excluding  
31 Section 1672, Article 10 (commencing with Section 1708), Article  
32 11 (commencing with Section 1716), and Article 13 (commencing  
33 with Section 1737), excluding Section 1741, of, and subject to the  
34 fees applicable to resident life agents as set forth in Article 14  
35 (commencing with Section 1750) of, Chapter 5. Every  
36 administrator shall also comply with Section 1724.5.

37 ~~SEC. 33.~~

38 *SEC. 34.* Section 1765.4 of the Insurance Code is amended to  
39 read:

1 1765.4. Any natural person applying for a license to act as a  
2 surplus line broker shall prove his or her competency by showing  
3 he or she holds an existing license to act as a property broker-agent  
4 and casualty broker-agent, which requires passing the qualifying  
5 examination for that insurance broker's license. Any natural person  
6 who is not a resident of California may prove his or her competency  
7 by showing that he or she holds an existing license for property  
8 and casualty in his or her resident state.

9 ~~SEC. 34.~~

10 *SEC. 35.* Section 1810.7 of the Insurance Code is amended to  
11 read:

12 1810.7. (a) In order to be eligible to take the examination  
13 required to be licensed under this chapter, the applicant shall have  
14 completed a minimum of 20 hours of classroom education in  
15 subjects pertinent to the duties and responsibilities of a bail  
16 licensee, including, but not limited to, all related laws and  
17 regulations, rights of the accused, ethics, and apprehension of bail  
18 fugitives. Additionally, a licensee shall complete in each two-year  
19 license term not less than 12 hours of continuing education in these  
20 subjects prior to renewal of his or her license.

21 (b) The commissioner shall approve or disapprove an applicant  
22 to provide education for licensure as required by this section within  
23 90 days of receipt of the applicant's full and complete application.  
24 However, this 90-day period shall be tolled during the pendency  
25 of any investigation of the applicant by the commissioner for an  
26 alleged violation that would, if proven, result in the suspension,  
27 revocation, or denial of the provider's approval to provide  
28 continuing education to bail agents as prescribed in Section 1813.  
29 Failure to disapprove an applicant within this period shall result  
30 in the automatic approval of the application. Approval shall be  
31 valid for two years. The commissioner may, at any time, disapprove  
32 any provider who is not qualified or whose course outlines are not  
33 approved, who is not of good business reputation, or who is lacking  
34 in integrity, honesty, or competency. A provider shall not provide  
35 education for licensure following the expiration of the two-year  
36 approval period unless the commissioner has renewed the  
37 provider's approval. The commissioner shall, at the time of  
38 renewal, approve or disapprove the course outlines and schedule  
39 of classes to be provided.

1 (c) Providers responsible for providing education for licensure  
2 under this chapter shall consult with the California State Sheriffs'  
3 Association, the California District Attorneys Association, and the  
4 County Counsels Association of California prior to submission of  
5 the course outlines for approval by the commissioner, and these  
6 entities may respond within 30 days of receipt of a request for  
7 consultation from a provider. Providers shall maintain records of  
8 their requests for consultation and any responses from these  
9 entities, and make these records available to the department for  
10 review as requested. The bail license fee shall be increased, the  
11 amount of which shall be determined by the commissioner, which  
12 shall be deposited in the Insurance Fund for the purposes of  
13 recovering the administrative costs for meeting the conditions and  
14 purposes of this section. Providers of education or continuing  
15 education shall offer courses to all applicants at the same course  
16 fees.

17 (d) Any person who falsely represents to the commissioner that  
18 compliance with this section has been met shall be subject, after  
19 notice and hearing, to the penalties and fines set out in Section  
20 1814.

21 (e) A licensee shall not be required to comply with the  
22 continuing education requirements of this section if the licensee  
23 submits proof satisfactory to the commissioner that he or she has  
24 been a licensee in good standing for 30 continuous years in this  
25 state and is 70 years of age or older.

26 (f) The commissioner may make reasonable rules and regulations  
27 necessary, advisable, and convenient for the administration and  
28 enforcement of this chapter. The rules and regulations may include  
29 a schedule establishing fees to be paid by an applicant seeking  
30 approval to act as a provider and to deliver courses under this  
31 section. Those fees shall be in an amount no greater than fees paid  
32 by applicants providing similar courses to other insurance agents  
33 licensed by the department, as specified in Section 1751.1.

34 (g) Nothing in this chapter shall preclude completion of the bail  
35 agent continuing education requirements of this section through a  
36 course of instruction offered via the Internet or correspondence.  
37 However, this subdivision shall not be construed to allow  
38 completion of the precensuring education requirements of this  
39 section through a course of instruction.

(h) Successful completion of the continuing education requirements by means of an Internet or correspondence course shall require obtaining a passing grade of at least 70 percent on a written final examination. The final examination shall be open book and shall be graded by the approved provider. The provider shall issue certificates of completion only to those students who have passed the final examination.

~~SEC. 35.~~

*SEC. 36.* Section 1851 of the Insurance Code is amended to read:

1851. The provisions of this chapter shall apply to all insurance on risks or on operations in this state, except:

(a) Reinsurance, other than joint reinsurance to the extent stated in Article 5 (commencing with Section 1856).

(b) Life insurance.

(c) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies. Inland marine insurance shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of the commissioner or as established by general custom of the business, as inland marine insurance.

(d) Title insurance.

(e) Disability insurance.

(f) Workers' compensation insurance and insurance of any liability of employers for injuries to, or death of, employees arising out of, and in the course of, employment when this insurance is incidental to, and written in connection with, the workers' compensation insurance issued to the same employer and covering the same employer interests.

(g) Insurance transacted by county mutual fire insurers or county mutual fire reinsurers.

~~SEC. 36.~~

*SEC. 37.* Section 1864 of the Insurance Code is amended to read:

1864. (a) Each insurer engaged in writing childcare liability insurance coverage in this state shall submit to the commissioner a report of its operations regarding childcare liability claims experience for the last preceding calendar year at the request of

1 the commissioner, but not more than annually, on a form prescribed  
2 by the commissioner. Each report shall separately state the  
3 following information for family daycare homes, as defined in  
4 Section 1596.78 of the Health and Safety Code, and licensed  
5 childcare centers, as defined in Section 1596.76 of the Health and  
6 Safety Code:

- 7 (1) Premiums earned.
- 8 (2) Premiums written.
- 9 (3) Number of claims.
- 10 (4) Number of new claims during the reporting period.
- 11 (5) Number of claims closed during the reporting period.
- 12 (6) Number of claims outstanding at the end of the reporting  
13 period.
- 14 (7) Total losses incurred.
- 15 (8) Total losses incurred as a percentage of premiums earned.
- 16 (9) Total number of policies in force on the last day of the  
17 reporting period.
- 18 (10) Total number of policies canceled.
- 19 (11) Total number of policies nonrenewed.
- 20 (12) Net underwriting gain or loss.
- 21 (13) Separate allocations of expenses for commissions, other  
22 acquisition costs, general office expenses, taxes, licenses and fees,  
23 and other expenses. The allocations required by this section shall  
24 be made by dividing the company's total premiums earned for  
25 child care liability insurance by its total premiums earned and  
26 applying the ratio determined to the expenses reported in the  
27 company's annual statement filed with the commissioner pursuant  
28 to Section 900.
- 29 (b) The commissioner shall develop and issue reporting forms  
30 to insurers at least 90 days prior to the due date of the reports  
31 required pursuant to this section.
- 32 (c) The Legislature finds that it is in the public interest of the  
33 policyholders of this state that insurers writing child care liability  
34 insurance permit remittance of premiums to occur on an installment  
35 basis.
- 36 (d) The information provided under this section pertaining to a  
37 specified claim, insurance policy, or insurer shall be confidential  
38 and shall only be revealed by the department on a nonspecific basis  
39 as part of an aggregate report of claims or policies.

~~SEC. 37.~~

SEC. 38. Section 12100 of the Insurance Code is amended to read:

12100. As used in this article:

(a) (1) “Financial guaranty insurance” means a surety bond, an insurance policy or, when issued by an insurer, an indemnity contract and any guarantee similar to the foregoing types, under which loss is payable upon proof of occurrence of financial loss to an insured claimant, obligee, or indemnitee as a result of any of the following events:

(A) Failure of any obligor on or issuer of any debt instrument or other monetary obligation (including equity securities guaranteed under a surety bond, insurance policy, or indemnity contract) to pay, when due to be paid by the obligor or scheduled at the time insured to be received by the holder of the obligation, principal, interest, premium, dividend, purchase price of or on the instrument or obligation, or other monetary payment when the failure is the result of financial default or insolvency, or, provided that the payment source is investment grade, any other failure of that payment source to make payment, regardless of whether the obligation is incurred directly or as guarantor by or on behalf of another obligor that has also defaulted.

(B) Changes in the levels of interest rates, whether short or long term, or the differential in interest rates between various markets or products.

(C) Changes in the rate of exchange of currency.

(D) Changes in the value of financial or commodity indices, or price levels in general.

(E) Other events that the commissioner determines by order, regulation, or written consent are substantially similar to any of the foregoing.

(2) Notwithstanding paragraph (1), “financial guaranty insurance” shall not include any of the following:

(A) Insurance of any loss resulting from any event described in paragraph (1), if the loss is payable only upon the occurrence of any of the following, as specified in a surety bond, insurance policy, or indemnity contract:

(i) A fortuitous physical event.

(ii) A failure of or deficiency in the operation of equipment.

(iii) An inability to extract or recover a natural resource.

1 (B) Title insurance authorized by Section 104 and as permitted  
2 to be written by title insurers pursuant to Chapter 1 (commencing  
3 with Section 12340) of Part 6.

4 (C) Surety insurance as authorized by Section 105.

5 (D) Credit unemployment insurance, meaning insurance on a  
6 debtor in connection with a specific loan or other credit transaction,  
7 to provide payments to a creditor in the event of unemployment  
8 of the debtor for the installments or other periodic payments  
9 becoming due while a debtor is unemployed.

10 (E) Credit insurance authorized by Section 113.

11 (F) Guaranteed investment contracts and funding agreements  
12 issued by life insurance companies that provide that the life insurer  
13 itself will make specified payments in exchange for specific  
14 premiums or contributions.

15 (G) Mortgage guaranty insurance authorized by Section 119  
16 and as permitted to be written by a mortgage guaranty insurer  
17 pursuant to Chapter 2A (commencing with Section 12640.01) of  
18 Part 6.

19 (H) Indemnity contracts or similar guarantees, to the extent that  
20 they are not otherwise limited or proscribed by this article, in which  
21 a life insurer does any of the following:

22 (i) Guarantees its obligations or indebtedness or the obligations  
23 or indebtedness of a subsidiary (as defined in Section 1215) other  
24 than a financial guaranty insurance corporation; provided that:

25 (I) To the extent that any obligations or indebtedness are backed  
26 by specific assets, those assets shall at all times be owned by the  
27 life insurer or the subsidiary.

28 (II) In the case of the guarantee of the obligations or  
29 indebtedness of the subsidiary that are not backed by specific assets  
30 of the life insurer, the guarantee terminates once the subsidiary  
31 ceases to be a subsidiary.

32 (ii) Guarantees obligations or indebtedness (including the  
33 obligation to substitute assets where appropriate) with respect to  
34 specific assets acquired by a life insurer in the course of normal  
35 investment activities and not for the purpose of resale with credit  
36 enhancement, or guarantees obligations or indebtedness acquired  
37 by its subsidiary, provided that the assets acquired pursuant to this  
38 clause have been either of the following:

1 (I) Acquired by a special purpose entity, whose sole purpose is  
2 to acquire specific assets of the life insurer or the subsidiary and  
3 issue securities or participation certificates backed by the assets.

4 (II) Sold to an independent third party.

5 (iii) Guarantees obligations or indebtedness of an employee or  
6 agent of the life insurer.

7 (I) Any cramdown bond or mortgage repurchase bond, as those  
8 phrases are used by nationally recognized rating agencies in respect  
9 of mortgage-backed securities.

10 (J) Residual value insurance.

11 (K) Any other form of insurance covering risks that the  
12 commissioner determines by order, regulation, or written consent  
13 to be substantially similar to any of the foregoing.

14 (b) "Affiliate" means a person that, directly or indirectly, owns  
15 at least 10 but less than 50 percent of the financial guaranty  
16 insurance corporation or that is at least 10 percent but less than 50  
17 percent, directly or indirectly, owned by a financial guaranty  
18 insurance corporation.

19 (c) "Asset-backed securities" means either of the following:

20 (1) Securities or other financial obligations of an issuer provided  
21 that both of the following apply:

22 (A) The issuer is a special purpose corporation, trust, or other  
23 entity, or, provided that the securities or other financial obligations  
24 constitute an insurable risk, is a bank, trust company, or other  
25 financial institution, deposits in which are insured by the Bank  
26 Insurance Fund or the Savings Association Insurance Fund of the  
27 Federal Deposit Insurance Corporation or any successors thereto.

28 (B) The securities or other financial obligations are related to  
29 a pool of assets so that all of the following apply:

30 (i) The pool of assets has been conveyed, pledged, or otherwise  
31 transferred to or is otherwise owned or acquired by the issuer.

32 (ii) The pool of assets backs the securities or other financial  
33 obligations issued.

34 (iii) No asset in the pool, other than an asset directly payable  
35 by, guaranteed by, or backed by the full faith and credit of the  
36 United States government or that otherwise qualifies as collateral  
37 under paragraph (1) or (2) of subdivision (e), has a value exceeding  
38 20 percent of the aggregate value of the pool.

(2) A pool of credit default swaps or credit default swaps referencing a pool of obligations, provided that each of the following is true:

(A) The swap counterparty whose obligations are insured under the credit default swap is a special purpose corporation, special purpose trust, or other special purpose legal entity.

(B) No reference obligation in the pool, other than an obligation directly payable by, guaranteed by, or backed by the full faith and credit of the United States government, or that otherwise qualifies as collateral under paragraph (2) of subdivision (e), has a notional amount exceeding 10 percent of the pool's aggregate notional amount.

(C) The insurer has the benefit of a deductible or other first loss credit protection against claims under its insurance policy.

(d) "Average annual debt service" means the amount of insured unpaid principal and interest on an obligation multiplied by the number of the insured obligations (assuming that each obligation represents a \$1,000 par value), divided by the amount equal to the aggregate life of all of those obligations. This definition, expressed as a formula in regard to bonds, is as follows:

$$\text{Average Annual Debt Service} = \frac{\text{Total Debt Service} \times \text{Number of Bonds}}{\text{Bond Years}}$$

$$\text{Total Debt Service} = \text{Insured Unpaid Principal} + \text{Interest}$$

$$\text{Number of Bonds} = \frac{\text{Total Insured Principal}}{\$1,000}$$

$$\text{Bond Years} = \text{Number of Bonds} \times \text{Term in Years}$$

Term in Years = Term to maturity based on scheduled amortization or, in the absence of a scheduled amortization in the case of asset-backed securities or other obligations lacking a scheduled amortization, expected amortization, in each case determined as of the date of issuance of the insurance policy based upon the amortization assumptions employed in pricing the insured obligations or otherwise used by the insurer to determine aggregate net liability.

(e) "Collateral" means any of the following:

(1) Cash.

1 (2) The cashflow from specific obligations that are not callable  
2 and scheduled to be received based on expected prepayment speed  
3 on or prior to the date of scheduled debt service (including  
4 scheduled redemptions and prepayments) on the insured obligation,  
5 provided that any of the following is true, as applicable:

6 (A) The specific obligations are directly payable by, guaranteed  
7 by or backed by the full faith and credit of the United States  
8 government.

9 (B) In the case of insured obligations denominated or payable  
10 in a foreign currency as permitted under paragraph (3) of  
11 subdivision (b) of Section 12112, the specific obligations are  
12 directly payable by, guaranteed by, or backed by the full faith and  
13 credit of the foreign government or the central bank thereof.

14 (C) The specific obligations are insured by the same insurer that  
15 insures the obligations being collateralized, and the cashflows from  
16 the specific obligations are sufficient to cover the insured scheduled  
17 payments on the obligations being collateralized.

18 (3) The market value of investment grade obligations, other  
19 than obligations evidencing an interest in the project or projects  
20 financed with the proceeds of the insured obligations.

21 (4) The face amount of each letter of credit that meets all of the  
22 following criteria:

23 (A) Is irrevocable.

24 (B) Provides for payment under the letter of credit in lieu of or  
25 as reimbursement to the insurer for payment required under a  
26 financial guaranty insurance policy.

27 (C) Is issued, presentable, and payable either:

28 (i) At an office of the letter of credit issuer in the United States.

29 (ii) At an office of the letter of credit issuer located in the  
30 jurisdiction in which the trustee or paying agent for the insured  
31 obligation is located.

32 (D) Contains a statement that either:

33 (i) Identifies the financial guaranty insurance corporation, its  
34 collateral agent, or any successor by operation of law, including  
35 any liquidator, rehabilitator, receiver, or conservator, as the  
36 beneficiary.

37 (ii) Identifies the trustee or the paying agent for the insured  
38 obligation as the beneficiary.

39 (E) Contains a statement to the effect that the obligation of the  
40 letter of credit issuer under the letter of credit is an individual

1 obligation of that issuer and is in no way contingent upon  
2 reimbursement with respect thereto.

3 (F) Contains an issue date and an expiration date.

4 (G) Does either of the following:

5 (i) Has a term at least as long as the shorter of the term of the  
6 insured obligation or the term of the financial guaranty insurance  
7 policy.

8 (ii) Provides that the letter of credit shall not expire without 30  
9 days prior written notice to the beneficiary and allows for drawing  
10 under the letter of credit in the event that, prior to expiration, the  
11 letter of credit is not renewed or extended or a substitute letter of  
12 credit or alternate collateral meeting the requirements of  
13 subdivision (e) is not provided.

14 (H) If the letter of credit is governed by the 1983 revision of  
15 the Uniform Customs and Practice for Documentary Credits of  
16 the International Chamber of Commerce (Publication 400 or 500),  
17 or any successor revision approved by the commissioner, it shall  
18 contain a provision for an extension of time, of not less than 30  
19 days after resumption of business, to draw against the letter of  
20 credit in the event that one or more of the occurrences described  
21 in Article 19 of Publication 400 or 500 occurs.

22 (I) Is issued by a bank, trust company, or savings association  
23 that meets all of the following criteria:

24 (i) Is organized and existing under the laws of the United States  
25 or any state thereof or, in the case of a financial institution  
26 organized under the laws of a foreign country, has a branch or  
27 agency office licensed under the laws of the United States or any  
28 state thereof and is domiciled in a member country of the  
29 Organization of Economic Co-operation and Development having  
30 a sovereign rating in one of the top two generic lettered rating  
31 classifications by a securities rating agency acceptable to the  
32 commissioner.

33 (ii) Has (or is the principal operating subsidiary of a financial  
34 institution holding company that has) a long-term debt rating of  
35 at least investment grade.

36 (iii) Is not a parent, subsidiary, or affiliate of the trustee or  
37 paying agent, if any, with respect to the insured obligation if that  
38 trustee or paying agent is the named beneficiary of the letter of  
39 credit.

1 (5) The amount of credit protection available to the insurer (or  
2 its nominee) under each credit default swap that satisfies each of  
3 the following:

4 (A) May not be amended without the consent of the insurer and  
5 may only be terminated in accordance with one of the following:

6 (i) At the option of the insurer.

7 (ii) At the option of the counterparty to the insurer (or its  
8 nominee), if the credit default swap provides for the payment of  
9 a termination amount equal to the replacement cost of the  
10 terminated credit default swap determined with reference to  
11 standard documentation of the International Swap and Derivatives  
12 Association, Inc. or otherwise acceptable to the commissioner.

13 (iii) At the discretion of the commissioner acting as rehabilitator,  
14 liquidator, or receiver of the insurer upon payment by or on behalf  
15 of the insurer of any termination amount due from the insurer.

16 (B) Provides for payment under all instances in which payment  
17 under a financial guaranty insurance policy is required, except that  
18 payment under the credit default swap may be on a first loss, excess  
19 of loss, or other nonpro rata basis and may apply on an aggregate  
20 basis to more than one policy.

21 (C) Is provided by one of the following:

22 (i) A counterparty whose obligations under the credit default  
23 swap are insured by a financial guaranty insurance corporation  
24 licensed under this article or guaranteed by a financial institution  
25 referred to in clauses (ii) and (iii) of this subparagraph.

26 (ii) A financial institution satisfying the requirements of clauses  
27 (i) to (iii), inclusive, of subparagraph (I) of paragraph (4), provided  
28 that obligations of the financial institution on parity with its  
29 obligations under the credit default swap are rated as investment  
30 grade, and further provided that, if the financial institution is not  
31 organized under, or acting through a branch or agency office  
32 licensed under, the laws of the United States or any state thereof,  
33 then the financial institution is required to collateralize the  
34 replacement cost of the credit default swap in the event that it fails  
35 to maintain the investment grade rating.

36 (iii) Any other financial institution that the commissioner  
37 determines to be substantially similar to any specified in clause  
38 (i) or (ii).

39 (iv) The requirements of this subparagraph shall not be construed  
40 as authority for an insurer domiciled in the United States to issue

1 credit default swaps unless the insurer has explicit authority to  
2 issue credit default swaps.

3 Collateral shall be deposited with or held by the financial  
4 guaranty insurance corporation, held by a trustee or agent for the  
5 benefit of the financial guaranty insurance corporation in trust or  
6 to perfect a security interest, or held in trust pursuant to the bond  
7 indenture or other trust arrangement by a trustee or custodian for  
8 the benefit of holders of the insured obligations in the form of  
9 funds for payment of insured obligations, sinking funds, or other  
10 reserves that may be used for the payment of insured obligations,  
11 collateral agent fees and trustee fees, or reimbursement of the  
12 financial guaranty insurance corporation on any obligation insured  
13 by the corporation. The trustee, custodian, or agent shall be a bank,  
14 savings association, depository institution, or other entity  
15 acceptable to the commissioner, the deposits of which are insured  
16 by the Bank Insurance Fund or the Savings Association Insurance  
17 Fund of the Federal Deposit Insurance Corporation (or any  
18 successors thereto), or in the case of banking organizations  
19 organized under the laws of a foreign country in addition satisfies  
20 the requirements of clauses (i) and (ii) of subparagraph (I) of  
21 paragraph (4), and; in each case that has a net worth of at least  
22 twenty-five million dollars (\$25,000,000). The trustee or agent  
23 may also be an approved or qualified servicer or originator of the  
24 kind of assets that comprise the collateral that maintains in force  
25 at all times errors and omissions insurance applicable to the trust  
26 or agency activities, including without limitation, a servicer  
27 qualified under a federal or state insurance or guaranty program  
28 to service loans or mortgage loans. The commissioner may adopt  
29 regulations, bulletins, notices or orders to limit the amount of  
30 collateral provided by obligations, letters of credit, or credit default  
31 swaps, or to limit the amount of collateral provided by any single  
32 issuer, bank, or counterparty as provided for in this subdivision.  
33 The commissioner may also require additional reporting as deemed  
34 necessary.

35 (f) “Commercial real estate” means income-producing real  
36 property other than residential property consisting of less than five  
37 units.

38 (g) “Contingency reserve” means an additional liability reserve  
39 established to protect policyholders against the effects of adverse  
40 economic cycles or other unforeseen circumstances.

1 (h) “Credit default swap” means an agreement referencing credit  
2 derivative definitions published from time to time by the  
3 International Swap and Derivatives Association, Inc., or otherwise  
4 acceptable to the commissioner, pursuant to which a party agrees  
5 to compensate another party in the event of a payment default by,  
6 insolvency of, or other adverse credit event in respect of, an issuer  
7 of a specified security or other obligation; provided that the  
8 agreement does not constitute an insurance contract and the making  
9 of the credit default swap does not constitute the transaction of  
10 insurance.

11 (i) “Excess spread” means, with respect to any insured issue of  
12 asset-backed securities, the excess of (A) the scheduled cashflow  
13 on the underlying assets that is reasonably projected to be available,  
14 over the term of the insured securities after payment of the expenses  
15 associated with the insured issue, to make debt service payments  
16 on the insured securities over (B) the scheduled debt service  
17 requirements on the insured securities, provided that this excess  
18 is held in the same manner as collateral is required to be held under  
19 subdivision (e).

20 (j) “Financial guaranty insurance corporation” means an insurer  
21 transacting financial guaranty insurance.

22 (k) “Governmental unit” means a state, territory, or possession  
23 of the United States of America, the District of Columbia, the  
24 country of Canada, a province of Canada, the United Kingdom, a  
25 public authority of the United Kingdom, a member country of the  
26 Organization for Economic Co-operation and Development having  
27 a sovereign rating in one of the top two generic lettered rating  
28 classifications by a securities rating agency acceptable to the  
29 commissioner, a municipality, or a political subdivision of any of  
30 the foregoing, or any public agency or instrumentality thereof.

31 (l) “Guarantees of consumer debt obligations” means insurance  
32 policies indemnifying a purchaser or lender against loss or damage  
33 resulting from defaults on a pool of debts owed for extensions of  
34 credit (including in respect of installment purchase agreements  
35 and leases) to individuals provided in the normal course of the  
36 purchaser’s or lender’s business, provided that the pool meets the  
37 requirements of paragraph (2) of subdivision (c) and that the pool  
38 has been determined to be investment grade. Policies providing  
39 that coverage shall contain a provision that all liability terminates  
40 upon sale or transfer of the underlying obligation to any transferee

1 that is not an insured of the financial guaranty insurance  
2 corporation under a similar policy.

3 (m) “Industrial development bond” means any security, or other  
4 instrument under which a payment obligation is created, issued by  
5 or on behalf of a governmental unit to finance a project serving a  
6 private industrial, commercial, or manufacturing purpose and not  
7 guaranteed by a governmental unit.

8 (n) “Insurable risk” means that the obligation on an uninsured  
9 basis has been determined to be not less than investment grade.  
10 With respect to asset-backed securities as defined in subdivision  
11 (c), the determination shall be, based solely on the pool of assets  
12 backing the insured obligation or securing the financial guaranty  
13 insurance corporation, without consideration of the  
14 creditworthiness of the issuer.

15 (o) “Investment grade” means that the obligation or parity  
16 obligation of the same issuer is rated in one of the top four generic  
17 lettered rating classifications by a securities rating agency  
18 acceptable to the commissioner, that the obligation or parity  
19 obligation of the same issuer, without regard to financial guaranty  
20 insurance, has been identified in writing by that rating agency as  
21 an insurable risk deemed to be of investment grade quality, or that  
22 the obligation or parity obligation of the same issuer has been  
23 determined to be investment grade (as indicated by a category 1  
24 or 2 rating) by the Securities Valuation Office of the National  
25 Association of Insurance Commissioners.

26 (p) “Municipal bonds” means municipal obligation bonds and  
27 special revenue bonds.

28 (q) (1) “Municipal obligation bond” means any security, or  
29 other instrument, including a lease payable or guaranteed by the  
30 United States or another national government that qualifies as a  
31 governmental unit, or any agency, department, or instrumentality  
32 thereof, or by a state or an equivalent subdivision of another  
33 national government that qualifies as a governmental unit, but not  
34 a lease of any other governmental unit, under which a payment  
35 obligation is created, issued by or on behalf of a governmental unit  
36 or issued by a special purpose corporation, special purpose trust,  
37 or other special purpose legal entity to finance a project or  
38 undertaking serving a substantial public purpose, and that is one  
39 or more of the following:

1 (A) Payable from tax revenues, but not tax allocations, within  
2 the jurisdiction of the governmental unit.

3 (B) Payable or guaranteed by the United States of America or  
4 another national government that qualifies as a governmental unit,  
5 or any agency, department, or instrumentality thereof, or by a  
6 housing agency of a state or an equivalent political subdivision of  
7 another national government that qualifies as a governmental unit.

8 (C) Payable from rates or charges (but not tolls) levied or  
9 collected in respect of a nonnuclear utility project, public  
10 transportation facility (other than an airport facility) or public  
11 higher education facility.

12 (D) With respect to lease obligations, payable from past, present,  
13 or future appropriations.

14 (2) Notwithstanding paragraph (1), obligations of a special  
15 purpose corporation, special purpose trust, or other special purpose  
16 legal entity shall not be considered municipal obligation bonds  
17 unless the obligations are investment grade at the time of issuance,  
18 the obligations are payable from sources enumerated in  
19 subparagraphs (A) to (D), inclusive, and the project being financed  
20 or the tolls, tariffs, usage fees, or other similar rates or charges for  
21 its use are subject to regulation or oversight by a governmental  
22 entity.

23 (r) "Parent" means a person that, directly or indirectly, owns at  
24 least 50 percent of a financial guaranty insurance corporation.

25 (s) "Reinsurance" means cessions qualifying for credit under  
26 Section 12121.

27 (t) "Security" or "secured" means any of the following:

28 (1) A deposit at least equal to the full amount of the outstanding  
29 principal of the insured obligation.

30 (2) Collateral, as defined by subdivision (e), at least equal to  
31 the full amount of the outstanding principal of the insured  
32 obligation or that has a market value or scheduled cashflow that  
33 is equal to or greater than the scheduled debt service on the insured  
34 obligation.

35 (3) Property, provided the financial guaranty insurance  
36 corporation or the trustee has possession of evidence of the right,  
37 title, or authority to claim or foreclose thereon or otherwise dispose  
38 of the property for value, the scheduled cashflow from which, or  
39 market value thereof, is at least equal to the scheduled debt service  
40 on the insured obligation.

(u) “Special revenue bond” means any security or other instrument under which a payment obligation is created, issued by or on behalf of, or payable or guaranteed by, a governmental unit to finance a project or undertaking serving a substantial public purpose and not payable from the sources enumerated in subdivision (q) or securities that are substantially similar to the foregoing issued by any of the following:

(1) A not-for-profit corporation.

(2) A special purpose corporation, special purpose trust or other special purpose legal entity, provided that the obligations are investment grade at the time of issuance, the obligations are not payable from the sources enumerated in subparagraphs (A) to (D), inclusive, of paragraph (1) of subdivision (q), and the project being financed or the tolls, tariffs, usage fees, or other similar rates or charges for its use are subject to regulation or oversight by a governmental entity.

(v) “Subsidiary” means a person that, directly or indirectly, is at least 50 percent owned by a financial guaranty insurance corporation.

(w) “Total net liability” of a financial guaranty insurance corporation means the aggregate amount of insured unpaid principal, interest, and other monetary payments, if any, of guaranteed obligations insured or assumed, less reinsurance and less collateral.

(x) “Utility first mortgage obligation” means an obligation of an issuer secured by a first priority mortgage on property owned or leased by an investor-owned or cooperative-owned utility company and located in the United States, Canada, or a member country of the Organization for Economic Co-operation and Development having a sovereign rating in one of the top two generic lettered rating classifications by a securities rating agency acceptable to the commissioner, provided that the utility or utility property or the usage fees or other similar utility rates or charges are subject to regulation or oversight by a governmental entity.

~~SEC. 38.~~

*SEC. 39.* Chapter 2 (commencing with Section 12420) of Part 6 of Division 2 of the Insurance Code is repealed.

~~SEC. 39.~~

*SEC. 40.* Section 12961 of the Insurance Code is repealed.

~~SEC. 40.~~

*SEC. 41.* Section 12962 of the Insurance Code is amended to read:

12962. The commissioner shall report to the Governor, the Legislature, and to the committees of the Senate and Assembly having jurisdiction over insurance all of the following in the annual report submitted pursuant to Section 12922:

(a) An analysis of the information required by Sections 674.5, 1857.7, 1857.9, and 12963, including, but not limited to, all of the following:

(1) An aggregate and an average for all insurers for each item of information required by these sections.

(2) The number of insurers reporting policies written for each class during the calendar year.

(3) For each class, the number of insurers reporting a combined loss ratio of 100 percent or more, and the number reporting a combined loss ratio of under 100 percent.

(4) An analysis of adjustments made to loss reserves for prior years.

(5) The change in any item required to be included by paragraphs (1) to (4), inclusive, from the immediately prior year.

(b) An analysis of the activities of the department in implementing the provisions of Proposition 103 on the November 8, 1988, general election ballot, as set forth in Article 10 (commencing with Section 1861.01) of Chapter 9 of Part 2 of Division 1.

(c) Recommendations and proposals, including suggested legislation, to protect consumers from arbitrary insurance rates and practices, to encourage a competitive insurance marketplace, to provide for an accountable commissioner, and to ensure that insurance is fair, available, and affordable for all Californians.

(d) The requirements of this section shall be satisfied if the analysis required by this section is included in the annual report to the Governor required by Section 12922, and a copy of that report is provided to the Legislature.

*SEC. 42.* Section 12967 of the Insurance Code is amended to read:

12967. (a) (1) The department shall develop and implement a coordinated approach to gather, review, and analyze the archives of insurers and other archives and records, using onsite teams and

1 the oversight committee, to provide for research and investigation  
2 into insurance policies, unpaid insurance claims, and related matters  
3 of victims of the Holocaust or of the Nazi-controlled German  
4 government or its allies, and the beneficiaries and heirs of those  
5 victims, and for losses arising from the activities of the  
6 Nazi-controlled German government or its allies for insurance  
7 policies issued before and during World War II by insurers who  
8 have affiliates or subsidiaries authorized to do business in  
9 California. Information compiled shall be placed in a centralized  
10 database for the retention of policy and claimant data, and the data  
11 shall be used to implement this section and Section 790.15.

12 (2) The department has an affirmative duty to play an  
13 independent role in representing the interests of Holocaust  
14 survivors where necessary, including the duty to carry out research,  
15 investigations, and advocacy. The department shall cooperate with,  
16 participate in, promote coordination with, and to the extent feasible  
17 and consistent with the purposes of this section, work jointly with  
18 the National Association of Insurance Commissioners and the  
19 international commission on Holocaust survivor claims or any  
20 other entity involved in the documentation, resolution, settlement,  
21 or distribution of insurance claims, including the documentation  
22 of unpaid claims and the distribution of proceeds, and the  
23 establishment and maintenance of a database to contain information  
24 relevant to claimants and documents and historical information.  
25 The department shall work to recover information and records that  
26 will strengthen the claims of California residents.

27 (3) The department shall employ insurance archaeologists,  
28 economists, attorneys, accountants, and other specialists, in this  
29 country and in Europe, to implement this section. The department  
30 shall work jointly with the National Association of Insurance  
31 Commissioners and other organizations for this purpose. The  
32 department's cooperation with other states shall be for the purpose  
33 of advancing survivors' claims while avoiding duplication of  
34 efforts, and shall be dependent upon contributions by other states.

35 (4) In order to assure that Holocaust survivors receive the most  
36 aggressive and independent representation possible in pursuit of  
37 their historic claims, in contracting with accounting firms, law  
38 firms, economists, or others to implement this section, the  
39 department shall, to the maximum extent possible, avoid any  
40 potential or actual conflict of interest by doing the following:

1 (A) Seek and give preference to firms that are entirely free of  
2 any associations with firms representing insurers and nations from  
3 which Holocaust survivors are seeking just treatment of their  
4 claims.

5 (B) If the department finds that it is necessary to contract with  
6 a firm or firms that have conflicts or potential conflicts of interest,  
7 those conflicts or potential conflicts of interest shall be disclosed  
8 to the commissioner, and the following requirements shall apply:

9 (i) The contract shall contain a provision that expresses a formal  
10 commitment on the part of the firm to aggressively pursue a  
11 maximum just settlement for Holocaust survivors and their families  
12 without regard to any adverse impacts on insurers, affiliates of  
13 insurers, nations, or others that may have employed the firm or  
14 affiliates of the firm that is contracting with the commissioner to  
15 assist in carrying out the commissioner's responsibilities under  
16 this section.

17 (ii) If any conflict or potential conflict exists between the firm,  
18 or an affiliate of the firm, and an insurer, an affiliate of an insurer,  
19 a nation or others directly or indirectly involving Holocaust claims,  
20 the firm shall disclose both the fact of the conflict or potential  
21 conflict, and all relevant information describing the nature of the  
22 conflict or potential conflict.

23 (iii) If a conflict or potential conflict exists between the firm,  
24 or an affiliate of the firm, and an insurer, an affiliate of an insurer,  
25 a nation, or others that does not directly or indirectly involve  
26 Holocaust claims, the firm shall disclose the fact of the conflict or  
27 potential conflict and identify the source of the conflict or potential  
28 conflict, but need not describe the particular circumstances or facts  
29 that create the conflict or potential conflict.

30 (C) The department may take whatever special measures it  
31 deems necessary to avoid either the appearance or the reality of  
32 conflicts that may undermine public confidence in the integrity of  
33 the effort to secure justice for Holocaust survivors.

34 (b) The funding of the activities provided for by this section for  
35 the 1998–99 fiscal year shall be from funds transferred pursuant  
36 to subdivision (b) of Section 1523 of the Code of Civil Procedure,  
37 which funds are hereby appropriated to the commissioner for that  
38 purpose. The commissioner shall seek reimbursement of those  
39 funds as provided in subdivision (c).

1 Funding for subsequent fiscal years shall be subject to the Budget  
2 Act and based on a plan submitted by the commissioner to the  
3 Legislature outlining the plan for reimbursement of expenses of  
4 the department by affected insurers.

5 Funds made available to implement this section shall be used to  
6 develop and implement a coordinated approach to gather, review,  
7 and analyze the archives of affected insurance groups, and other  
8 archives and records, using onsite teams and the oversight  
9 committee. These funds shall also be used to fund the necessary  
10 expenses of the Holocaust Era Insurance Claims Oversight  
11 Committee established in subdivision (d). The information  
12 compiled shall be placed in a centralized database for the retention  
13 of policy and claimant data, and that data shall be used by the  
14 department to implement this section.

15 (c) (1) Any funds recovered by the department for the purpose  
16 of reimbursing the state for costs associated with investigation and  
17 enforcement actions under this section shall not be deposited in  
18 the Insurance Fund, but instead shall be delivered to the Controller  
19 for deposit into the General Fund.

20 (2) To the maximum extent possible, the department shall seek  
21 reimbursement for its costs incurred in implementing this section,  
22 including funds transferred pursuant to subdivision (b) of Section  
23 1523 of the Code of Civil Procedure, from any settlements reached  
24 with affected insurers.

25 (d) (1) There is established a seven-member Holocaust Era  
26 Insurance Claims Oversight Committee, that shall be known as  
27 the oversight committee, and whose members shall be appointed  
28 as follows:

29 (A) Four members shall be appointed by the Governor.

30 (B) One member shall be appointed by the President pro  
31 Tempore of the Senate.

32 (C) One member shall be appointed by the Speaker of the  
33 Assembly.

34 (D) One member shall be appointed by the Commissioner of  
35 Insurance.

36 (2) The Governor shall designate one of his or her appointees  
37 as the chairperson of the committee.

38 (3) Each member of the committee shall serve at the pleasure  
39 of the authority that appointed him or her to serve on the  
40 committee.

1 (4) The oversight committee shall be composed of qualified  
2 individuals with experience in Holocaust claims cases, similar  
3 investigations, archival research, and international law. The  
4 oversight committee shall also include Holocaust survivors. No  
5 member of the oversight committee shall have a potential or actual  
6 conflict of interest, or shall be employed by a person who has a  
7 potential or actual conflict of interest.

8 (5) The appointments shall be expedited because of the urgency  
9 due to survivors' needs.

10 (6) The oversight committee shall have the following authority  
11 and shall do all of the following:

12 (A) Review and make recommendations concerning any  
13 insurance settlement negotiation or offer relating to a Holocaust  
14 era insurance claim in which the department is involved.

15 (B) Review and make recommendations to the commissioner  
16 on the priorities for expenditure of funds and use of resources by  
17 the department for Holocaust era insurance claims related activities.

18 (C) Recommend whether a proposed settlement of a Holocaust  
19 era insurance claim submitted to the committee pursuant to  
20 paragraph (7) is equitable before the department finalizes the  
21 settlement agreement.

22 (7) The commissioner, in the event of a proposed settlement of  
23 any policy or group of policies relating to Holocaust era insurance  
24 claims, shall confer with the committee prior to the department  
25 finalizing the settlement agreement. The department may not  
26 finalize a proposed settlement of a Holocaust era insurance claim  
27 unless the committee, pursuant to subparagraph (C) of paragraph  
28 (6), recommends that the proposed settlement is equitable.

29 ~~(e) The department shall report its progress in implementing~~  
30 ~~this section and its participation in the identification and resolution~~  
31 ~~of insurance claims of Holocaust survivors and their beneficiaries~~  
32 ~~and heirs. The report shall also include an overview of current and~~  
33 ~~anticipated expenditures in implementing this section. The~~  
34 ~~department shall report this information to the Governor, the~~  
35 ~~Legislature, and the insurance and budget committees of the~~  
36 ~~Legislature in the annual report submitted pursuant to Section~~  
37 ~~12922.~~

38 ~~SEC. 41.~~

39 *SEC. 43.* Article 7.5 (commencing with Section 14085) is added  
40 to Chapter 1 of Division 5 of the Insurance Code, to read:

## Article 7.5. Crop Insurance Adjusters

14085. (a) Upon application, the commissioner shall issue a crop insurance adjuster license to a person who meets both of the following requirements:

(1) Obtains an insurance adjuster license, with the exception of the examination requirement of Section 14026.

(2) Provides evidence that he or she has satisfactorily completed the loss adjustment training curriculum and competency testing required by the Federal Crop Insurance Corporation Standard Reinsurance Agreement.

(b) For the purposes of this article, the following definitions apply:

(1) “Crop insurance” means insurance provided by the private insurance market that indemnifies for damage to crops from unfavorable weather conditions, fire, lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils, and multiple peril crop insurance reinsured by the federal crop insurance corporation.

(2) “Crop insurance adjuster” means a person who investigates, negotiates, or settles crop insurance claims.

(c) A person shall not act as or purport to be a crop insurance adjuster unless licensed as a crop insurance adjuster.

(d) A person shall not contract, employ, or use any other person to adjust claims made under a crop insurance policy unless the other person is licensed as a crop insurance adjuster.

(e) All provisions of this chapter and any regulations adopted pursuant to this chapter shall apply to crop insurance adjusters, unless exempted by or in conflict with this article or the regulations adopted pursuant to this article.

(f) The commissioner may adopt regulations to implement this article, including, but not limited to, regulations that require applicants to satisfy other competency requirements in addition to or instead of those referred to in paragraph (2) of subdivision (a), and regulations that establish standards of practice for crop insurance adjusters.

*SEC. 44. Section 52.5 of Chapter 639 of the Statutes of 2003 is repealed.*

~~SEC. 52.5. (a) The Legislature finds and declares all of the following:~~

1     ~~(1) The State Compensation Insurance Fund is the workers'~~  
2     ~~compensation insurer of last resort insuring most of the small~~  
3     ~~employers in the state, and employers that cannot find insurance~~  
4     ~~elsewhere.~~

5     ~~(2) Today, the State Compensation Insurance Fund covers over~~  
6     ~~50 percent of the market and its financial health is essential to the~~  
7     ~~economic well-being of the state.~~

8     ~~(3) Employers in this state need reasonably priced workers'~~  
9     ~~compensation insurance.~~

10    ~~(b) It is the intent of the Legislature that the Insurance~~  
11    ~~Commissioner review and analyze the financial condition,~~  
12    ~~underwriting practices, and rate structure of the State Compensation~~  
13    ~~Insurance Fund and report to the Legislature and the Governor on~~  
14    ~~the potential of reducing rates by July 1, 2004, and every July 1~~  
15    ~~thereafter.~~

16    ~~SEC. 42:~~

17    ~~SEC. 45.~~ No reimbursement is required by this act pursuant to  
18    Section 6 of Article XIII B of the California Constitution because  
19    the only costs that may be incurred by a local agency or school  
20    district will be incurred because this act creates a new crime or  
21    infraction, eliminates a crime or infraction, or changes the penalty  
22    for a crime or infraction, within the meaning of Section 17556 of  
23    the Government Code, or changes the definition of a crime within  
24    the meaning of Section 6 of Article XIII B of the California  
25    Constitution.